

SSB
5/3/10

IN THE FOURTH COURT OF APPEALS
OF THE STATE OF TEXAS

CASE NO. 04-09-00312-CR

THE STATE OF TEXAS,

APPELLEE

VS.

GONZALO ARTEMIO LOPEZ

APPELLANT

FILED
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS
2010 JUN - 1 PM 2:42

APPEAL FROM THE 341st JUDICIAL DISTRICT COURT

WEBB COUNTY, TEXAS

STATE'S MOTION FOR LEAVE TO FILE OUT OF TIME BRIEF

TO THE HONORABLE JUSTICES OF SAID COURT:

Filing by FAX

COMES NOW THE STATE OF TEXAS, Appellee, and files this State's Motion for Leave to File Out of Time Brief in the above-styled and numbered cause, and would respectfully show the Court the following:

I.

The State's Brief was due May 1, 2010. However, due to office error and the inadvertent misplacement of Appellant's Opening Brief and any notice thereof, the undersigned Assistant District Attorney was not aware that Appellant's Brief had been filed on April 1, 2010. More than ten days have elapsed since the date the State's Response Brief was due. Therefore, the State is requesting this motion for leave to have the opportunity file a response.

II.

The undersigned Assistant District Attorney is not requesting this extension for the purpose

of delay but so that justice may prevail. An extension of thirty (30) days from today's date would suffice.

WHEREFORE, PREMISES CONSIDERED, the State of Texas, Appellee, would respectfully request that this Motion be granted.

RESPECTFULLY SUBMITTED,

ISIDRO R. ALANIZ
DISTRICT ATTORNEY
49TH & 341ST JUDICIAL DISTRICTS
WEBB COUNTY, TEXAS

BY:


BRENDA ANDERSON
ASSISTANT DISTRICT ATTORNEY
STATE BAR NO. 24057744

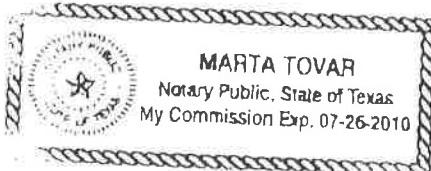
VERIFICATION

BEFORE ME, the undersigned Notary, on the 1st day of June, 2010, personally appeared Brenda Anderson, who being duly sworn by me stated that she has read the above and foregoing State's Motion for Leave to File Out of Time Brief and that the facts stated therein are true and correct.



BRENDA ANDERSON
ASSISTANT DISTRICT ATTORNEY

Subscribed and Sworn to before me on this the 1st day of June, 2010, to certify which witness my hand and official seal.



Marta Tovar
Notary Public
My commission expires: 7-26-10CERTIFICATE OF SERVICE

I certify that the foregoing State's Motion for Leave to File Out of Time Brief was mailed to appellant's attorney, Deborah Letz, Assistant Public Defender, 410 S. Main Ave., Suite 214, San Antonio, TX 78204.



BRENDA ANDERSON
Assistant District Attorney
State Bar No. 24057744
Attorney for the State of Texas



ISIDRO R. ALANIZ
DISTRICT ATTORNEY
49TH JUDICIAL DISTRICT
WEBB/ZAPATA COUNTY
LAREDO, TEXAS 78040

FACSIMILE

Date: 6/1/10 Pages: 14 including this cover sheet.
To: 4th Court of Appeals - John Danila From: Brenda Anderson
Phone No: 210-335-3220 Phone: 956-523-4921
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Urgent Please Respond Info Requested For Your Review

Ref: No. 04-09-00312-CR ; Gonzalo Artemio Lopez v. State

Message: Please see attached State's Motion for Leave to
File Out of Time Brief

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THANK YOU.